



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2013-0002; FRL-9904-53-Region 10]

Revision to the Idaho State Implementation Plan; Approval of Fine Particulate Matter Control Measures; Franklin County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On December 14, 2012, the Idaho Department of Environmental Quality (IDEQ) submitted a revision to the State Implementation Plan (SIP) to address Clean Air Act (CAA) requirements for the Idaho portion (hereafter referred to as “Franklin County”) of the cross border Logan, Utah-Idaho fine particulate matter (PM_{2.5}) nonattainment area (Logan UT-ID). The EPA is proposing a limited approval of PM_{2.5} control measures contained in the December 2012 submittal because incorporation of these measures would strengthen the Idaho SIP and reduce sources of PM_{2.5} emissions in Franklin County that contribute to violations of the 2006 PM_{2.5} NAAQS in the Logan UT-ID nonattainment area. Consequently, the EPA is not acting on the entire contents of the December 2012 SIP submission revision at this time.

DATES: Written comments must be received on or before [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2013-0002, by any of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments.
- E-mail: R10-Public_Comments@epa.gov
- Mail: Jeff Hunt, EPA Region 10, Office of Air, Waste and Toxics (AWT-107), 1200

Sixth Avenue, Suite 900, Seattle WA, 98101

- Hand Delivery / Courier: EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle WA, 98101. Attention: Jeff Hunt, Office of Air, Waste and Toxics, AWT - 107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information

Instructions: Direct your comments to Docket ID No. EPA-R10-OAR-2013-0002. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although

listed in the index, some information is not publicly available, e.g., CBI or other information, the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle WA, 98101.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt at telephone number: (206) 553-0256, e-mail address: hunt.jeff@epa.gov, or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean the EPA.

The following outline is provided to aid in locating information in this preamble.

I. Background

II. Description of the Franklin County PM_{2.5} Control Measures

III. Proposed Action

IV. Statutory and Executive Order Reviews

I. Background

The 2006 PM_{2.5} National Ambient Air Quality Standard (NAAQS), set forth at 40 CFR 50.13, effective December 18, 2006, include 24-hour standards of 35 micrograms per cubic meter (µg/m³) based on a 3-year average of the 98th percentile of 24-hour concentrations (71 FR 61144, Oct. 17, 2006). Effective December 14, 2009, the EPA designated the Logan UT-ID area (cross state, partial county designation) as a nonattainment area for the 2006 24-hour PM_{2.5} standards (74 FR 58688, Nov. 13, 2009). The EPA included a portion of Franklin County, Idaho within the Logan UT-ID nonattainment area because emissions from sources in Idaho contribute

to violations of the 2006 24-hour PM_{2.5} NAAQS in the Logan, UT-ID area as a whole.¹

In March 2012, the EPA issued guidance to states for implementation of the 2006 PM_{2.5} NAAQS (March 2012 Implementation Guidance).² In this guidance, the EPA recommended that states submit SIP revisions to meet the nonattainment area planning requirements of the CAA within three years of the effective date of the nonattainment area designation. The EPA also recommended in the guidance that states make submissions for the 2006 PM_{2.5} NAAQS consistent with the substantive requirements of 40 CFR part 51, subpart Z (*Provisions for Implementation of PM_{2.5} National Ambient Air Quality Standards*, 40 CFR 51.1000 *et seq.*). Accordingly, in December 2012, IDEQ submitted a SIP revision intended to address the nonattainment planning requirements for the Franklin County portion of the Logan UT-ID nonattainment area (also referred to as “Cache Valley”).

On January 4, 2013, however, the Court of Appeals for the District of Columbia remanded to the EPA the “Final Clean Air Fine Particle Implementation Rule” which forms the basis of the 40 CFR part 51, subpart Z nonattainment planning requirements in *Natural Resources Defense Council v. EPA*, 706 F.3d 428 (D.C. Cir. 2013). The Court concluded that the EPA had improperly based the implementation rule for the 1997 PM_{2.5} NAAQS solely upon the requirements of part D, subpart 1 of the CAA, and had failed to address the requirements of part D, subpart 4. As a result of the Court’s decision with respect to the statutory implementation requirements for PM_{2.5} nonattainment areas the EPA withdrew its March 2012 Implementation Guidance because it was based largely on the remanded rule promulgated to

¹ Technical Support for State and Tribal Air Quality 24-Hour Fine Particulate (PM_{2.5}) Designations, Sections 4.8.2 and 4.10.2 (Dec. 2008).

² Memorandum from Stephen D. Page, Implementation Guidance for the 2006 24-Hour Fine Particulate (PM_{2.5}) National Ambient Air Quality Standards (Mar. 2, 2012).

implement the 1997 PM_{2.5} NAAQS.³ The EPA is currently engaged in rulemaking to address the remand from the Court. In the interim, however, the EPA believes that it may still be appropriate to take certain actions on SIP submissions from states intended to address nonattainment planning requirements for the 2006 PM_{2.5} NAAQS.

IDEQ's December 2012 SIP submission presented the state's evaluation of the PM_{2.5} nonattainment problem in the area. IDEQ explained that the Franklin County portion of the overall Logan UT-ID nonattainment area is rural and sparsely populated, containing only 10% of the overall Logan UT-ID nonattainment population base. Franklin County contains no major point sources of PM_{2.5} or PM_{2.5} precursors, defined by IDEQ for purposes of this SIP revision as a facility with the potential to emit annual emissions of 100 tons or more. Additionally, IDEQ stated that Franklin County accounts for roughly one-tenth of the overall mobile source emissions from cars and trucks and generally small area source contributions in the Logan UT-ID nonattainment area. Because the majority of emission sources impacting the nonattainment area are located outside Franklin County, IDEQ's December 2012 SIP submittal acknowledged that control measures either already promulgated or required as part of the Utah SIP are necessary to demonstrate attainment for the entire Logan UT-ID area.

As part of its December 2012 submission, IDEQ included a modeled attainment test conducted by the Utah Department of Environmental Quality Division of Air Quality (UDAQ). This modeled attainment test predicted the Logan UT-ID area would attain by the end of 2014 based solely on control measures adopted in the Utah portion of the area, with the Idaho controls providing additional reductions. Because the Idaho submission relies on the Utah control measures in demonstrating attainment, however, the EPA must also complete a comprehensive

³ Memorandum from Stephen D. Page, Withdrawal of Implementation Guidance for the 2006 24-Hour Fine Particle (PM_{2.5}) National Ambient Air Quality Standards (Jun. 6, 2013).

review of Utah's SIP submission for the Logan UT-ID area before the EPA can act on the entire SIP submission for the Franklin County portion of the area. Moreover, the EPA's evaluation of the SIP submissions from both states would need to include the emissions inventory, approach to PM_{2.5} precursors, analysis and adoption of reasonably available control measures and reasonably available control technology (RACT and RACM), reasonable further progress (RFP) and quantitative milestones, contingency measures, and the attainment demonstration. The EPA will need to evaluate these submissions against the statutory requirements of part D, subpart 4.

In light of the court's decision in *Natural Resources Defense Council v. EPA*, and the need to evaluate the IDEQ submission in conjunction with the SIP submission for the Utah portion of the Logan UT-ID nonattainment area, the EPA is not at this time making a determination whether IDEQ's December 2012 SIP submission satisfies all of the statutory nonattainment planning requirements for the 2006 PM_{2.5} NAAQS. Instead, the EPA's proposed action on IDEQ's December 2012 SIP revision is limited to approving specific control measures included in the submission that are expected to strengthen the SIP. These measures independently meet requirements for control measures in attainment plans and the emissions reductions they achieve will contribute to attainment of the 2006 PM_{2.5} NAAQS in the Logan UT-ID area. Despite the limited nature of this proposed approval, the EPA believes that approval and incorporation of the control measures in the December 2012 SIP submission strengthen the Idaho SIP and provide important PM_{2.5} emission reductions.

II. Description of the Franklin County PM_{2.5} Control Measures

IDEQ, in close coordination with UDAQ, completed an emissions inventory for directly emitted PM_{2.5} (primary PM_{2.5}) and the PM_{2.5} precursors sulfur dioxide (SO₂), nitrogen oxides (NO_x), volatile organic compounds (VOC), and ammonia. An analysis of the baseline year

emissions inventory indicated that sources in Franklin County contribute about one-fifth of the overall area primary PM_{2.5} emissions during wintertime episodes when the area is most likely to violate the 24-hour PM_{2.5} NAAQS. The important source categories identified for this contribution of primary PM_{2.5} consist of 70% reentrained dust from winter road sanding, 14% residential wood burning emissions, and 6% mobile source primary PM_{2.5} emissions. It is important to note that the EPA is not in this action evaluating whether IDEQ's or UDAQ's evaluation of which PM_{2.5} precursors should be controlled within Franklin County, or within the entire Logan UT-ID area, is correct and consistent with the statutory requirements of part D, subpart 4. Nevertheless, the EPA agrees with IDEQ's determination that control of direct PM_{2.5} emissions in this area is a necessary and appropriate step that will contribute to attainment of the 2006 PM_{2.5} NAAQS in this area.

To reduce the contribution of primary PM_{2.5} from reentrained dust on paved roads, IDEQ entered into road sanding agreements with Franklin County Road and Bridge and the Idaho Transportation Department as part of the SIP. The Franklin County Road and Bridge agreement reduces the amount of sand used on paved roads by substituting a brine solution when appropriate. For those times when antiskid treatment is required, Franklin County Road and Bridge agreed to use a 4-to-1 sand to salt ratio instead of the 10-to-1 ratio used in past years. Similarly, the Idaho Transportation Department agreed to use straight salt and liquid salt brine throughout Franklin County, except for occasional extenuating circumstances that warrant additional anti-skid materials. IDEQ used the EPA's AP-42 road dust emission estimation methodology in calculating future PM_{2.5} reductions and found that the road sanding agreements would reduce primary PM_{2.5} emissions from 0.47 tons per day in an uncontrolled scenario to 0.37 tons per day by 2014, for a typical winter weekday. Although the road sanding agreements are

expected to reduce emissions of PM_{2.5}, they are not directly enforceable. However, the road sanding agreements are similar to agreements previously approved by the EPA as voluntary measures in the Idaho SIP (70 FR 29247), and consistently implemented by the relevant state, county and municipal governments. Accordingly, the EPA is proposing to approve the road sanding agreements as voluntary measures in accordance with existing guidance.⁴

IDEQ also worked with local jurisdictions in Franklin County to establish residential woodstove ordinances to control primary PM_{2.5} and VOC emissions from non-EPA certified devices during mandatory burn ban days. IDEQ's Air Quality Index (AQI) program supports the local jurisdictions by calling mandatory burn bans for uncertified woodstoves when PM_{2.5} concentration levels are at or forecasted to reach 25.4 µg/m³. The ordinances also ban open burning of any kind during burn ban days. Lastly, the ordinances prohibit the sale or installation of non-EPA certified devices in new or existing buildings, and prohibit the construction of any building for which a solid fuel burning device is the sole source of heat. Because the residential woodstove burn ban program for Franklin County was newly launched in the 2012-2013 heating season, to estimate the PM_{2.5} reductions are difficult and were not included in the emission reduction modeling runs. Lastly, IDEQ conducted two woodstove change-out programs in 2006 and 2011 replacing a total of 152 uncertified residential wood combustion devices in Franklin County. In developing the emissions inventory for Franklin County, IDEQ calculated an estimated 5.78 tons per year of primary PM_{2.5} emissions reductions from these change-out programs. The recently enacted woodstove ordinances prohibit the sale or installation of uncertified devices which will help to assure that the 2006, 2011, and any future change-out programs will continue to provide lasting emissions reductions benefits over time.

Table 1 – Franklin County PM_{2.5} Control Measures

⁴ Incorporating Emerging and Voluntary Measures in a State Implementation Plan (Sept. 2004).

Title	State or Local Effective Date
Letter of Intent PM 2.5 Reduction, Franklin County Road Department to Department of Environmental Quality (Voluntary Measure)	July 16, 2012
Road Sanding Agreement, Idaho Transportation Department to Idaho Department of Environmental Quality (Voluntary Measure)	October 25, 2012
Ordinance No. 120, City of Clifton, Idaho	August 11, 2012
Ordinance No. 287, City of Dayton, Idaho	August 8, 2012
Franklin City Ordinance, Solid Fuel Heating Appliances, No. 2012-9-12	September 12, 2012
Franklin County Ordinance, Solid Fuel Heating Appliances, No. 2012-6-25	June 25, 2012
Memorandum of Understanding, Solid Fuel Heating Appliances, City of Oxford, Idaho	October 22, 2012
Ordinance No. 2012-1, City of Preston, Idaho	June 11, 2012
Ordinance No. 2012-01, City of Weston, Idaho	August 1, 2012

III. Proposed Action

The EPA proposes to approve and incorporate into the SIP the specific control measures submitted by IDEQ on December 14, 2012. These control measures are listed in Table 1 and full copies are included in Appendix E of Idaho's SIP revision and in the docket for this proposed action. If finally approved by the EPA, these specific control measures will become part of the Idaho SIP for purposes of the 2006 PM_{2.5} NAAQS. As described above, at this time the EPA is not making a determination that these control measures satisfy RACM or any other statutory nonattainment area planning requirements under part D, subpart 4. However, the control measures adopted by IDEQ in the Franklin County portion of the Logan UT-ID area provide important PM_{2.5} reductions that strengthen the existing Idaho SIP. Due to the cross-state nature of the Logan UT-ID nonattainment area, the EPA will act on the remainder of Idaho's December 2012 SIP submission following a complete review of the corresponding Utah SIP submission.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies

with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 et seq.

Dated: December 13, 2013.

Dennis J. McLerran,
Regional Administrator,
Region 10.

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